

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Larry Williams, #94203,	)	
	)	C/A No. 3:11-946-MBS
Petitioner,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
Wayne C. McCabe, Warden,	)	
	)	
Respondent.	)	
	)	

Petitioner Larry Williams is an inmate in custody of the South Carolina Department of Corrections. He currently is housed at Lieber Correctional Institution in Ridgeville, South Carolina. Petitioner, proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. The Magistrate Judge reviewed the § 2254 petition pursuant to the provisions of 28 U.S.C. § 1915 and the Anti-Terrorism and Effective Death Penalty Act of 1996. On June 7, 2011, the Magistrate Judge filed a Report and Recommendation in which he noted that the within petition is Petitioner's fourteenth habeas corpus action brought under § 2254 in the United States District Court for the District of South Carolina. The Magistrate Judge further noted that Petitioner must move the Court of Appeals for the Fourth Circuit for authorization to seek federal habeas review. See 28 U.S.C. § 2255(h). Accordingly, the Magistrate Judge recommended that the petition be dismissed without prejudice and without requiring Respondent to file an answer or return. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Petitioner’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is dismissed without prejudice and without requiring Respondent to file an answer or return.

#### CERTIFICATE OF APPEALABILITY

A certificate of appealability will not issue absent “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir.2001). The court concludes that Petitioner has not made the requisite showing.

Accordingly, the court **denies** a certificate of appealability.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

July 7, 2011.

**NOTICE OF RIGHT TO APPEAL**

**Petitioner is hereby notified of the right to appeal this order  
pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**